IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7870 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHUPENDRABHAI CHATURBHAI PATEL

Versus

DINESHBHAI MANIBHAI PATEL

Appearance:

1. Special Civil Application No. 7870 of 1999

MR HARIN P RAVAL for Petitioner No. 1-3

MR YN OZA with MR RC JANI for Respondent No. 1

MS MANISHA SHAH A.G.P. for Respondent No. 2

MR POPAT for MR RA MISHRA for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 14/12/2004

ORAL JUDGEMENT

1. The petitioners have by way of this petition

challenged the impugned order dated 13th August, 1999 passed in Appeal No.44/99, filed by respondent no.1, whereby respondent no. 2 has quashed and set aside the order dated 23/26th March, 1999 passed by District Development Officer respondent no. 3 herein.

2. After hearing the parties at length, prima facie it appears that there are serious allegations against respondent no. 2, the then officer who had heard the matter. Apart from that since reply is not filed, the matter requires reconsideration on the part of respondent no. 2. Therefore, in my opinion, at this stage it is not proper for this Court to give any opinion, in view of the serious allegations made against respondent no. 2, who had heard the matter.

3. Looking to the peculiar facts and circumstances of the case, a consensus has been arrived at between the parties on the basis of which the impugned order is required to be quashed and the matter is remanded to respondent no.2 for fresh decision.

4. In view of the above, the petition is partly allowed. The impugned order dated 13th August, 1999 passed in Appeal No.44/99 at annexure-M is quashed and set aside.

4.1. The matter is remanded to respondent no. 2 for fresh decision. Respondent no. 2 shall decide the matter afresh after hearing the parties and also without being influenced by the earlier order passed by the officer who was incharge, which is quashed in the present petition, and also the present order passed in the present petition, since the same is passed without entering into the merits of the case.

4.2. It is directed that respondent no. 2 shall hear and decide the Appeal within a period of three months from the date of receipt of writ of this order. It is also made clear that status-quo as on today shall continue till the Appeal is heard and disposed of.

5. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/